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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,387	10/28/1999	ADAM MICHAEL FENNE	17954-15	4586

7590 10/11/2002

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EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 10/11/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/428,387	FENNE, ADAM MICHAEL 27
	Examiner Dimitri Tundra	Art Unit 2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM

#### THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed

- after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 9-50 is/are rejected.
- 7) Claim(s) 6-8 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Allowable Subject Matter***

1. Claims 6, 7, 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 6, the closest prior art Wolfe et al. (US 5931901) shows the method of claim 2. Wolfe et al. fails to show (h) delivering second viewing behavior information of the first viewer from a viewing station, which the first viewer is using at a second use time after the first use time, to the processing system;

(i) processing, at the processing system, at least the first viewer demographic information and the first viewer second viewing behavior information to select a first viewer multimedia second message.

These features render the dependent claim allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7 and 8 are allowable as being dependent on allowable claim 6.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 41, it is unclear how to "deliver multimedia content over the Internet to the viewing station" after it "is at least substantially not available". The process is missing the step of the content becoming available.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 23, 27, 29 – 30 are rejected under 35 U.S.C. 102(e) as being unpatentable by Hite et al. (US 6002393).

Regarding claim 23, Hite et al. shows a message delivery system, comprising:

a processing system (col. 6, ln. 40 – 47);  
means for delivering to the processing system viewing information on the viewing of multimedia content by a first viewer (col. 2, ln. 44 – 65);  
means for displaying at a viewing station multimedia content for viewing by the first viewer (inherent to the TV broadcasting);  
wherein the processing system uses the viewing information to select a desired sponsored video message (col. 3, ln. 17 – 29); and  
means for delivering the message to a viewing station for viewing by the first viewer in conjunction with the viewing by the first viewer of the multimedia content (col. 3, ln. 17 – 29).

Regarding claim 27, Hite at al. shows the system of claim 23 wherein the displaying means includes the viewing station including a television (Fig. 4).

Regarding claim 29, Hite shows the system of claim 23 further comprising means for pre-caching the message for presentation when the multimedia content is at least substantially not available for presentation at the viewing station (col. 5, ln. 12 – 14, 21 – 30).

Regarding claim 30, Hite shows the system of claim 29 wherein the pre-caching means is at the viewing station (col. 5, ln. 12 – 14, 21 – 30).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 5, 9 – 10, 14 – 15, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)**.

Regarding claim 1, Wolfe et al. shows a message delivery method, comprising:

(a) Wolfe et al. shows only delivering listening behavior information, but does not show delivering viewing behavior information (col. 1, ln. 55 – 60) of a first viewer from one or more viewing stations, which the first viewer is using to a processing system (col. 2, ln. 42 – 57). Hite et al. shows delivering viewer information (col. 3, ln. 17 – 48). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. by adding viewing content to the computer system and reporting viewing information back to the server in order to entertain the customers better by providing them video in addition to audio and for monitoring viewing behavior;

(b) delivering viewing behavior information (col. 1, ln. 55 – 60) of a second viewer from one or more viewing stations, which the second viewer is using to the processing system (because all viewers are unique, the method is the same as for the 1<sup>st</sup> viewer);

(c) processing the first viewer viewing behavior information delivered to the processing system to select a first viewer multimedia message (col. 2, ln. 39 – 40

describe multimedia advertising messages being audio messages) targeted to the first viewer (col. 2, ln. 42 – 57);

(d) processing the second viewer viewing behavior information delivered to the processing system to select a second viewer multimedia message (col. 2, ln. 39 – 40 describe multimedia advertising messages being audio messages) targeted to the second viewer (col. 2, ln. 42 – 57); and

(e) delivering the first viewer multimedia message to a viewing station of the first viewer (col. 2, ln. 58 – col. 3, ln. 3).

Regarding claim 2, Wolfe et al. shows the method of claim 1 further comprising:

(f) delivering demographic information regarding the first viewer to the processing system (col. 4, ln. 12 – 29);

(g) delivering demographic information regarding the second viewer to the processing system (method identical to the 1<sup>st</sup> viewer);

Regarding claim 3, Wolfe et al. shows the method of claim 2 wherein (c) includes processing the first viewer demographic information to select the first viewer multimedia message (col. 4, ln. 12 – 29, where demographic information is part of the determining factors to select a multimedia message (advertisement)).

Regarding claim 4, Wolfe et al. shows the method of claim 3 wherein (d) includes processing the second viewer demographic information to select the second viewer multimedia message (method identical to claim 3).

Regarding claim 5, Wolfe et al. shows the method of claim 2, wherein the processing of (c) and (d) are at the processing system (col. 2, ln. 48 – 50).

Regarding claim 9, it is inherent that any particular viewer receives several multimedia messages over time, including second message.

Regarding claim 10, Wolfe et al. shows the method of claim 1 wherein (e) includes delivering the message with multimedia content to the viewing station of the first viewer (col. 2, ln. 39 – 40, where audio messages are multimedia content).

Regarding claim 14, Wolfe et al. shows the method of claim 1 wherein the processing system includes a processing server (fig. 1, items 10 and 32; col. 4, ln. 26 – 29 show an operation/control block, controlled by the CPU 10) operatively connected to the Internet (col. 1; ln. 14 – 19).

Regarding claim 15, Wolfe et al. shows a method of claim 1 wherein the first multimedia message is a video message (col. 3, ln. 33 – 40).

Regarding claim 16, Wolfe et al. in view of Hite et al. show the method of claim 1, wherein the viewing behavior is video viewing behavior (col. 3, ln. 17 – 48).

Regarding claim 22, Wolfe meets limitation of claim 1 wherein the multimedia content is not available because a sufficient amount thereof has not been downloaded. It is not possible to decode after receiving only, for example, 2 bits of the digital music stream, if, for example, the audio is an 8-bit word. It is not possible to decode without receiving enough information.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Aharoni et al. (US 6014694)**.

Regarding claim 11, Wolfe et al. shows a method of claim 2. Wolfe et al. does not show the method of claim 2, wherein (a) includes the viewing behavior information including downloading speed information of the viewing station which the first viewer is using. Aharoni et al. shows reporting the speed of the client among other parameters to the server (col. 17, ln. 52 – 54). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. by including downloading speed information of the viewing station for the server, as taught by Aharoni et al., to “make an online determination regarding the quantity of data to send to the client” (col. 17, ln. 57 – 59).

Claims 12 – 13, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)** and further in view of **Srinivasan et al. (US 2001/0023436)**.

Regarding claim 12, Wolfe et al. and Hite et al. show a method of claim 2. Wolfe et al. does not show the method of claim 2, wherein (e) includes the viewing station including a television. Srinivasan et al. discusses a concept of the television being used in the Web browsing and computers being used to watch the television broadcasts (p. 1, par. 0003). Srinivasan et al. further shows that a TV set can be used as a computer monitor, when some extra components are added to it (p. 1, par. 0004), thus becoming a viewing station. Although Wolfe et al. only uses his system to transmit *audio* data, it would have been obvious for one of ordinary skill in the art to modify his system by adding *video* displaying capability, as taught by Srinivasan et al. (p. 1, par. 0002) to it to make the system more attractive to the customers. It would further have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by including a TV as a viewing station to have a bigger screen and thus to enhance the viewing capability of the system and to add the broadcast receiving capability.

Regarding claim 13, Wolfe et al. in view of Hite et al. show a system of claim 2. Wolfe et al. does not show the method of claim 12, wherein (a) includes the viewing station including a video-on-demand system, although his system is audio-on-demand, as disclosed in the title. Srinivasan et al. discloses the method of claim 12, wherein (a) includes the viewing station including a video-on-demand system (p. 16, par. 0187). It

would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by including VOD system, as taught by Srinivasan, in order for viewers not to wait long for the multimedia to be delivered.

Regarding claim 20, Wolfe et al. in view of Hite et al. show the method of claim 1. They do not show (e) includes delivering the first viewer multimedia message to the viewing station simultaneously with the delivery of the multimedia content thereto. Srinivasan shows the method of claim 1, wherein (e) includes delivering the first viewer multimedia message to the viewing station simultaneously with the delivery of the multimedia content thereto. Metadata insertion into VBI means simultaneous transmission of multimedia messages and multimedia content (see the abstract). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by simultaneously transmitting the content and the messages, as taught by Srinivasan, in order to make sure that they are available at the same time.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)** and further in view of **Gerace (US 5848396)**.

Regarding claim 17, Wolfe et al. in view of Hite et al. show the method of claim 1. Wolfe et al. in view of Hite et al. does not show the method of claim 1, wherein (a) includes the viewing behavior information including the time of viewing by the first viewer. Gerace shows recording the starting and ending time of viewing (col. 6, ln 46 –

57). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by collecting the information of starting and ending time in order to provide advertisements to the user during these hours, thus achieving better ad targeting.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)** and further in view of **Bedard (US 5801747)**.

Regarding claim 18, Wolfe et al. in view of Hite et al. show the method of claim 1. Wolfe et al. in view of Hite et al. does not show the method of claim 1, wherein (a) includes the viewing behavior information including the length of viewing time of the first viewer at the viewing station. Bedard shows the viewing behavior information including the length of viewing time of the viewer (col. 3, ln. 63 - col. 4, ln. 14). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by monitoring the duration of viewing "to determine the viewer's preferred channels" (col. 3, ln. 35), as taught by Bedard.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)** and further in view of **Ballard (US 6182050)**.

Regarding claim 19, Wolfe et al. in view of Hite et al. show the method of claim 1. Wolfe et al. in view of Hite et al. does not show the method of claim 1 wherein (e)

includes presenting the first viewer multimedia message when there is a break in the availability of the multimedia content for presentation at the viewing station. Ballard shows displaying advertisement when there is an interruption of content, because the computer is off – line or because the program is being loaded. It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by showing the advertisement when the break of the Internet connection occurs in order to occupy the time, when the user cannot work on the Internet as taught by Ballard.

Regarding claim 21, Wolfe et al. in view of Hite et al. show a method of claim 1. Wolfe et al. in view of Hite et al. does not show the method of claim 1, wherein (e) includes pre-caching the first viewer multimedia message for presentation at the viewing station when multimedia content to be viewed is generally not available for presentation. Ballard shows that the advertisement messages are downloaded and stored on the hard drive (cached) and later on are displayed on the screen when the computer goes offline, and thus the multimedia content is not available for presentation (from the Internet) (col. 3, ln. 21 – 35).

Claims 24 – 26, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hite et al. (US 6002393)** in view of **Gerace (US 5848396)**.

Regarding claim 24, Hite et al. shows the system of claim 23. Hite et al. does not show the system further comprising:

means for delivering demographic information about the first viewer to the processing system and wherein the processing system also uses the demographic information to select the desired message. Gerace shows means for delivering demographic information about the first viewer to the processing system and wherein the processing system also uses the demographic information to select the desired message (fig. 3b, item 37a, abstract, fig. 2, col. 4, ln. 37 – 65, where user profiling member includes demographic information). It would have been obvious for one of ordinary skill in the art to modify Hite et al. by including demographic information field in the user profile, as taught by Gerace, to better target the customers with advertisements.

Regarding claim 25, Gerace further shows the system of claim 24 further comprising:

means for delivering second-viewer demographic information on a second viewer to the processing system (fig. 3b, item 37a, abstract, fig. 2, col. 4, ln. 37 – 65, where user profiling member includes demographic information);

means for delivering to the processing system second-viewer viewing information on the viewing by the second viewer of multimedia content (fig. 3g, item 37f; abstract, fig. 2, col. 4, ln. 37 – 65);

means for displaying at a viewing station multimedia content for viewing by the second viewer (inherent for Hite et al. – TV system has to display video content, which is part of multimedia);

wherein the processing system uses the second-viewer demographic information together with the second-viewer viewing information to select a desired second-viewer sponsored video message different from the message for the first viewer (fig. 3g, item 37f; abstract, fig. 2, col. 4, ln. 37 – 65, where user profiling member includes demographic information; the idea that the messages are different between viewers comes from the notion that the system processes user profile, not group profile to determine the advertisements, thus displaying identical advertisements is only possible if two users have identical user data and viewing activity); and

means for delivering the second-viewer message to a viewing station for viewing by the second viewer in conjunction with the viewing by the second viewer of the multimedia content (col. 2, ln. 35 – 45).

Regarding claim 26, Hite et al. does not show the system of claim 23, wherein the displaying means includes the viewing station including a computer monitor and a computer speaker. Gerace shows the system of claim 23, wherein the displaying means includes the viewing station including a computer monitor (inherent to any computer) and a computer speaker (col. 3, ln. 4 – 10 describe using audio – video components in advertisement, which require to have speakers connected to the computer). It would have been obvious to modify Hite et al. by including monitor and speakers in order to achieve computer interactivity.

Regarding claim 28, Hite et al. shows the system of claim 23. Hite et al. does not show the system of claim 23, wherein the viewing information includes viewing information on the first viewer every time the first viewer logs onto the processing system and views multimedia content. Gerace et al. shows the system that collects viewer information (fig. 3g, item 37f) and because the system is automatic, the information is obtained for any program, any time the user logs on. It would have been obvious to modify Hite et al. by Gerace et al. to achieve more accurate user profile.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)**.

Regarding claim 31, Wolfe et al. shows a message delivery system, comprising:

Wolfe et al. shows first and second listening stations (fig. 1, items 12, 14), but does not show the video viewing stations; Hite et al. shows a video viewing station delivering viewer information (col. 3, ln. 17 – 48). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. by adding viewing content to the computer system and reporting viewing information back to the server in order to entertain the customers better by providing them video in addition to audio and for monitoring viewing behavior;

a multimedia content server (fig. 1, item 30);  
a message server including a plurality of different sponsored video messages (fig. 1, item 26; col. 3, ln. 33 – 40);

a processing server, which processes multimedia-viewing information about a first viewer and therefrom selects a first message from the plurality of messages (fig. 1, items 10, 28, 32, col. 4, ln. 12 – 29);

the first station presenting the first message from the message server and multimedia content from the multimedia content server for viewing by the first viewer (col. 3, ln. 51 – 61);

the processing server processing multimedia viewing information about a second viewer and therefrom selecting a second message from the plurality of messages (fig. 1, items 10, 28, 32, col. 4, ln. 12 – 29); and

the second station presenting the second message from the message server and multimedia content from the multimedia content server for viewing by the second viewer (col. 3, ln. 51 – 61).

Regarding claim 32, Wolfe et al. in view of Hite et al. further shows the system of claim 31 wherein the processing server also processes demographic information on the first viewer to select the first message and demographic information on the second viewer to select the second message (col. 4, ln. 12 – 16).

Regarding claim 33, Wolfe et al. in view of Hite et al. further shows the system of claim 31 further comprising a recipient assembly, which presents viewer/viewing information transmitted thereto by the processing server (fig. 1, items 12, 14, 16; col. 3, ln. 33 – 40, 54 – 56).

Claims 34 – 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Berard (US 5801747)**.

Regarding claim 34, Wolfe et al. does not show processing server programmed to:

receive multimedia first-viewer viewing information relative to a first viewer; Wolfe et al. shows processing server receiving audio-listening information relative to the first listener (col. 4, ln. 12 – 29). Berard shows monitoring viewing behavior. (col. 3, ln. 63 – col. 4, ln. 14). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. to include viewing video content, monitoring and processing viewer behavior, based on this content in order to provide the user with the opportunity to view both audio and video content. In rejection of the rest of the claim and its dependent claims it is assumed that the teaching of Wolfe et al. and Berard are combined. All further references in this claim and subsequent dependent claims will be in regards to Wolfe et al.

process the first-viewer viewing information to obtain first processed information, and associate the first processed information with a first sponsored video message from a database of messages for delivery to a first viewing station for viewing by the first viewer together with multimedia (col. 4, ln. 12 – 29);

receive second-viewer multimedia viewing information relative to a second viewer (col. 4, ln. 12 – 18); and

process the second-viewer viewing information to obtain second processed information and associate the second processed information with a second sponsored video message from the database for delivery to a second viewing station for viewing by the second viewer together with multimedia (col. 2, ln. 42 – 57).

Regarding claim 35, Wolfe et al. further shows the server of claim 34 further programmed to receive first-viewer demographic information relative to the first-viewer and to process the first-viewer demographic information together with the multimedia first-viewer viewing information to obtain the first processed information (col. 4, ln. 12 – 29; col. 2, ln. 42 - col. 3, ln. 3).

Regarding claim 36, Wolfe et al. shows the server of claim 34 further programmed to transmit viewer/viewing information to a recipient assembly for presentation to a recipient (col. 2, ln. 58 – col. 3, ln. 3).

Regarding claim 37, Wolfe et al. does not show a processing server, comprising: means for receiving first-viewer demographic information and first viewer multimedia viewing information, both relative to a first viewer; Wolfe et al. shows means for receiving first-listener demographic information, and first listener multimedia listening information, both relative to a first viewer (col. 4, ln. 12 – 29). Berard shows monitoring viewing behavior (col. 3, ln. 63 – col. 4, ln. 14). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. to include viewing video content, monitoring

and processing viewer behavior, based on this content in order to provide the user with the opportunity to view both audio and video content, and target both video and audio customers with advertisements. In rejection of the rest of the claim and its dependent claims it is assumed that the teaching of Wolfe et al. and Berard are combined. All further references in this claim and subsequent dependent claims will be in regards to Wolfe et al.

means for processing the first-viewer information's to obtain a first signal for delivery to a message server for selecting therefrom a desired first sponsored video message, the first message to be viewed by the first viewer at a viewing station (col. 4, ln. 12 – 29, col. 2, ln. 42 – 57);

means for receiving second-viewer demographic information and second-viewer multimedia viewing information, both relative to a second viewer (according to Wolfe et al. each viewer is unique, collecting, processing and delivering information from and to users is independent from other users. Col. 2, ln. 42 – 57, col. 4, ln. 12 – 29) ; and

means for processing the second-viewer information to obtain a second signal for delivery to the message server for selecting therefrom a desired second sponsored video message, the second message to be viewed by the second viewer at a viewing station (col. 4, ln. 25 – 29, col. 2, ln. 42 – 57).

Regarding claim 38, Wolfe et al. shows the server of claim 37 further comprising means for delivering viewer/viewing information to a recipient assembly for presentation to a recipient (col. 2, ln. 58 - col. 3, ln. 3).

Claims 39 - are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002,393)** and further in view of **Judson (US 5572643)**.

Regarding claim 39, Wolfe et al. shows a presentation delivery method, comprising;

(a) delivering a sponsored message over the Internet to a listening station (col. 3, ln. 32 – 40), but Wolfe et al. does not show the video viewing stations; Hite et al. shows a video viewing station delivering viewer information (col. 3, ln. 17 – 48). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. by adding viewing content to the computer system and reporting viewing information back to the server in order to entertain the customers better by providing them video in addition to audio and for monitoring viewing behavior;

(b) Wolfe et al. does not show pre-caching the delivered message at the viewing station. Judson shows precaching information objects or messages, which can be advertisements (abstract, fig. 3; col. 5, ln. 20 – 22); It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. to precache the ads in order for the client not to download the same messages all the time and thus save the networking bandwidth.

(c) delivering multimedia content over the Internet to the viewing station (col.2, ln. 5 – 8);

(d) presenting the delivered multimedia content at the viewing station (col. 3, ln. 48 – 56); and

(e) Wolfe et al. in view of Hite et al. does not teach presenting the pre-cached message at the viewing station at a time when the multimedia content is at least substantially not available. Judson teaches displaying advertisement from cache when the request for the downloading is not being answered for some time (abstract and fig. 3). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. to present the pre-cached message at the viewing station at a time when the multimedia content is at least substantially not available, as taught by Judson, in order to occupy the user at that time (Judson col. 1, ln. 59 – 63).

Regarding claim 40, Judson shows the method of claim 39 wherein (c) is at the same time as (e) (abstract and fig. 3).

Regarding claim 42, Wolfe et al. meets the limitation of claim 39, wherein the multimedia content is not available because a sufficient portion of the multimedia content has not been pre-cached. It is not possible to decode after receiving only, for example, 2 bits of the digital music stream, if, for example, the audio is an 8-bit word. It is not possible to decode without receiving enough information.

Regarding claim 43, Wolfe et al. meets the limitation of claim 39, wherein the multimedia content is not available because (c) includes a break in the delivering of the

multimedia content. It is inherent, that if any file including multimedia file is not completely downloaded, it cannot run. It is also inherent for the streaming audio/video, that when the video streaming is not being delivered, it cannot be displayed.

Claims 44 – 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolfe et al. (US 5931901)** in view of **Hite et al. (US 6002393)** and further in view of **Judson (US 5572643)**.

Regarding claim 44, Wolfe et al. shows a presentation delivery method (presentation of the audio content over the Internet, see abstract), comprising:

(a) Wolfe et al. does not show pre-caching a sponsored message at a viewing station. Hite et al. shows pre-caching a sponsored message at a viewing station (col. 5, ln. 12 – 14, 21 – 30); It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. to include precaching of the messages not to download the same messages every time when they need to be displayed, and thus eliminating unnecessary Internet traffic.

(b) loading at least a portion of multimedia content at the viewing station (Wolfe et al., abstract – downloading musical content from the Internet). Wolfe does not show downloading video content. Hite shows downloading video content, because his system is TV system (col. 1, ln. 7 – 16) and TV system is used for downloading TV programs. It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. by including video capabilities in addition to audio, because it would enhance the enjoyment of the customers;

(c) Wolfe and Hite do not show during (b), presenting the sponsored message at the viewing station to a viewer. Judson shows displaying ads, while the client waits for the completion of downloading of the web content from the server (abstract); It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. in view of Hite et al. by showing the ads during the download time of the media in order to occupy the user during the time when the multimedia content is unavailable.

(d) after (c), presenting the multimedia content at the viewing station to the viewer (Judson, col. 1, 34 – 55 show that the link *is* displayed after the request. In the interval between the request and the displaying of the link content, the ad is displayed. The content of the link can be the multimedia content).

Regarding claim 45 and 46, Wolfe et al. shows the method of claim 44 further comprising before (a), obtaining information relative to the viewer and based on the information, selecting the message so as to be specifically targeted to that viewer (abstract – “... musical content and related advertising are classified and matched.” It is clear that matching the ads with the customer profile is done before caching, because the ads are related to the customer profile and thus cannot be downloaded and cached before obtaining customer profile. Wolfe et al. teaches that customer profile includes listening behavior (col. 4, ln. 12 - 29). It would have been obvious to combine it with the viewing behavior of the Hite’s et al. system in order to better target the viewers. Then the information would include prior multimedia viewing information of the viewer.

Regarding claim 47, Wolfe et al. presents the method of claim 46 wherein the information further includes demographic information on the viewer (col. 4, ln. 12 – 20).

Regarding claim 48, Wolfe et al. presents the method of claim 44 wherein the sponsored message is a video message (col. 3, ln. 33 – 40).

Regarding claim 49, Wolfe et al. presents the method of claim 44 wherein (a) includes receiving information from the Internet (abstract). Wolfe et al. does not show precaching information. Hite et al. shows the pre-caching information (col. 5, ln. 12 – 14, 21 – 30). It would have been obvious for one of ordinary skill in the art to modify Wolfe et al. by including pre-caching of the files received from the Internet, as taught by Hite et al., not to download the same messages every time when they need to be displayed, and thus eliminating unnecessary Internet traffic.

Regarding claim 50, Wolfe et al. presents the method of claim 49 wherein (b) includes the loading being from off of the Internet (abstract).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dujari (US 6199107) provides the teaching of incomplete computer download and caching.

Logan et al. (US 5986692) provides the teaching of computer monitoring and caching.

Patterson et al. (US 6320882) teaches handling multiple real-time service events.

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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dimitri Tundra whose telephone number is (703) 605-4246. The examiner can normally be reached Monday – Thursday, 8:30AM – 6:00PM and every even week of the month on Friday 8:30 AM – 5:00PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5399.

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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

DT:dt  
December 16, 2001